

DISTRICT OF COLUMBIA TAXICAB COMMISSION

THIRD NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I), (J), 14, 20, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), (J) (2009 Repl.), 50-313 (2009 Repl.; 2012 Supp.), 50-319 (2009 Repl.), and 50-320 (2012 Supp.)); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its intent to adopt amendments to Chapters 3, 5, 7, 8 and 10 of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

These rules will also comply fully with the Taxicab Service Improvement Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-184; 59 DCR 9431) (“Improvement Act”), and the Public Vehicle for Hire Innovation Amendment Act of 2013, effective April 23, 2013 (D.C. Law 19-270; 60 DCR 1717) (“Innovation Act”), both effective on October 1, 2013.

Proposed rules amending Chapters 3, 5, 6, 7, 8 and 10 of DCMR Title 31 were originally approved by the Commission for publication on February 13, 2013, and published in the *D.C. Register* on March 15, 2013, at 60 DCR 3783. The Commission held a public hearing on the proposed rules on April 12, 2013, to receive oral comments on the proposed rules. The Commission received valuable comments from the public at the hearing and throughout the comment period, which expired on April 13, 2013. A second proposed rulemaking was published in the *D.C. Register* on May 17, 2013 at 60 DCR 7048. Comments received during the comment period, which ended on June 15, 2013, were carefully considered and necessitated a third publication. The proposed rules clarify jurisdiction, procedures, and penalties to assist the Office of Taxicabs in its enforcement of Title 31, and clarify that all enforcement actions shall be governed by this Chapter.

The proposed rulemaking was adopted on March 12, 2014, and will begin a thirty (30) day comment period upon publication in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of third proposed rulemaking in the *D.C. Register*.

Chapter 7, COMPLAINTS AGAINST TAXICAB OWNERS OR OPERATORS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is deleted.

A new Chapter 7, ENFORCEMENT, is added as follows.

CHAPTER 7 ENFORCEMENT

700 APPLICATION AND SCOPE

- 700.1 This chapter is intended by the Commission to establish fair and consistent procedural rules for enforcement of and compliance with this title, uniform across all classes of public vehicle-for-hire services to the extent legally and practically permissible.
- 700.2 This chapter applies to all persons, including all owners, operators, and businesses, regulated by this title.
- 700.3 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et. seq.*) (“Establishment Act”), and the District of Columbia Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199, D.C. Official Code §§ 50-331 *et. Seq.*) (“Impoundment Act”).
- 700.4 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, including a penalty provision, the provision of this chapter shall control.
- 700.5 The provisions of this chapter shall apply to all matters and contested cases pending on the date of final publication, to the extent allowed by the District of Columbia Administrative Procedure Act (“DCAPA”) effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code § 2-501 *et seq.*) and other applicable law.

701 ADMINISTRATIVE ISSUANCES, INSTRUCTIONS, AND PROCEDURES

- 701.1 The Office of Taxicabs (“Office”) may promulgate an issuance, instruction, or a procedure as it deems necessary and appropriate to aid in administration, enforcement, or compliance with any provision of this title. An issuance, instruction or procedure may be modified or rescinded at any time with reasonable notice.
- 701.2 Each issuance, instruction, and procedure shall be in writing and shall:
- (a) Interpret or explain a provision of this title or other applicable law; or
 - (b) Provide administrative guidance for compliance with a provision of this title or other applicable law such as establishing application requirements for obtaining licenses, including required documentation and deadlines for providing information required by this title to the Office.

701.3 Each issuance, instruction and procedure shall be posted on the Commission's website and shall become effective twenty four (24) hours after it is posted or at such later time as stated in the issuance, instruction, or procedure provided, however, that an issuance or instruction shall become effective upon posting if the issuance or instruction states that it is effective upon posting based on a determination that such action is required to protect passenger, operator, or public safety; for consumer protection; or, where otherwise permitted by law.

701.4 Failure to comply with an issuance, instruction, or procedure may result in the denial of a license or an enforcement action under § 703 for violation of any applicable provision of law to which the issuance, instruction, or procedure applies.

702 COMPLIANCE ORDERS

702.1 The Office or a District enforcement official (including a public vehicle inspection officer) may issue a compliance order to any person regulated by this title or other applicable law.

702.2 A compliance order may require a person to implement a measure or undertake any lawful action to comply with a provision of this title or other applicable law such as:

- (a) Requiring a person to appear at the Office provided that the order clearly states that the appearance is mandatory;
- (b) Requiring a person to surrender, or produce for inspection and copying, a document or item related to compliance with a provision of this title or other applicable law, including a licensing document;
- (c) Requiring a person to submit a vehicle for testing or inspection;
- (d) Requiring a person to allow the administrative inspection of a place of business or business records; or
- (e) Requiring a person to take any other action necessary to ensure or verify compliance with a provision of this title or other applicable law.

702.3 A compliance order may be issued orally by a District enforcement official, and otherwise shall be in writing and shall be served upon the person responsible for compliance with the order in a manner prescribed in § 712.

702.4 Each compliance order shall include the following information:

- (a) The nature of the alleged violation, including a citation or reference to the relevant provision of this title or other law;

- (b) The specific action the respondent must take to comply; and,
- (c) The deadline for compliance which may be immediately upon service or delivery of the order.

702.5 Each person must fully comply with a compliance order issued to such person. Failure to comply with a compliance order may result in the initiation of an enforcement action in accordance with § 703, the penalties and fines prescribed in § 702.6, or both.

702.6 The civil penalties for failure to comply with a compliance order are established as follows:

- (a) Each person, other than an entity, that fails to timely and fully comply with a compliance order shall be subject to a civil of five hundred dollars (\$500), which shall be doubled for the second violation, and tripled for the third and subsequent violations occurring within any twelve (12) month period.
- (b) Each entity that fails to timely and fully comply with a compliance order shall be subject to a civil fine of seven hundred fifty dollars (\$750), which shall be doubled for the second violation, and tripled for the third and subsequent violations occurring within any twelve (12) month period; and
- (c) If an entity's failure to comply with a compliance order causes the Office to lose jurisdiction over an enforcement action against any person, then, in addition to a civil fine that may be imposed under subparagraph (b) of this subsection, such entity shall pay a civil fine of two thousand five hundred dollars (\$2,500).

703 ENFORCEMENT ACTIONS

703.1 The Office may take one or more of the following enforcement actions where there are reasonable grounds to believe that a person has violated, or is violating, a provision of this title or other applicable law:

- (a) Issue a notice of infraction ("NOI") in accordance with § 704;
- (b) Issue an order to cease and desist in accordance with § 705;
- (c) Issue an order of immediate suspension of a license in accordance with § 706 or § 707;
- (d) Issue a notice of proposed suspension or revocation of a license in accordance with § 708; or

- (e) Issue an order of impoundment of a vehicle pursuant to the Impoundment Act.

703.2 In addition to any other penalty or action authorized by a provision of this title, the Office may recommend to another government agency the denial, revocation or suspension of any license that may be issued by the other agency.

703.3 Each respondent shall respond to a notice of an enforcement action within the time stated in the notice or, if no time for a response is stated in the notice, as specified in this chapter. Failure to respond within the time required shall subject the respondent to the civil penalties and fines imposed therein.

703.4 The Office may modify, supplement or withdraw any enforcement action at any time, provided such action is consistent with fundamental fairness and the due process rights of the respondent.

703.5 The enumeration of enforcement actions in this section shall not limit or proscribe any legal remedy available to the Commission or the Office in a court proceeding at law or in equity.

703.6 The Commission or Office may, through the Office of the Attorney General, petition the District of Columbia Superior Court for injunctive relief, or take any other action authorized by law to enforce compliance with a provision of this title or other applicable law.

703.7 All impoundments of vehicles shall occur as provided in the Impoundment Act.

704 NOTICES OF INFRACTION

704.1 The Office or a District enforcement official may issue a notice of infraction (“NOI”), imposing a fine or other penalty, whenever the Office or the enforcement official has reasonable grounds to believe the respondent is in violation of a provision of this title or other applicable law.

704.2 An NOI shall be in writing in a form prescribed by the Office and shall state:

- (a) The name of the respondent;
- (b) A citation or reference to the law or regulation that the respondent allegedly violated;
- (c) The time, place, and nature of the facts giving rise to the infraction;
- (d) The amount of the fine or other civil penalty applicable to the infraction as prescribed in this title;

(e) A statement that:

- (1) The fine must be paid within thirty (30) calendar days of the date that the NOI has been served on the respondent;
- (2) The respondent has the right to request a hearing before the Office of Administrative Hearings (“OAH”); and,
- (3) If the respondent fails to pay the fine or request a hearing within thirty (30) calendar days of the date the NOI is served on the respondent, a penalty equal to the amount of the fine may be imposed and the respondent’s license may be suspended until the fine have been paid; and,

(f) Any other information that the Office may require.

704.3 An NOI shall be served and filed in the manner prescribed by § 712.

704.4 In response to an NOI, a respondent shall file a written answer with OAH within thirty (30) days of the date the NOI is served on the respondent. The answer shall:

- (a) Admit the infraction and pay the fine;
- (b) Admit the infraction with an explanation, and providing any supporting documentation; or
- (c) Deny the infraction and request a hearing.

704.5 Payment of the fine shall not relieve the respondent of the obligation to abate the infraction cited in the NOI.

704.6 If a respondent admits an infraction in the NOI, the respondent shall include payment of the fine with his or her answer. If respondent pays the stated fine but fails to indicate a specific answer, the respondent shall be deemed to have admitted the infraction.

704.7 If a respondent responds to an NOI, does not pay the stated fine, and fails to state an answer as required by § 704.4, the respondent shall be deemed to have denied the infraction.

704.8 If the respondent admits an infraction with an explanation, the respondent shall state on the NOI whether the respondent requests a hearing on the papers or an in-person hearing. The OAH may hold an in-person hearing in its sole discretion.

- 704.9 If a respondent denies an infraction, OAH may schedule an in-person hearing in accordance with its rules.
- 704.10 If a respondent does not answer the NOI within thirty (30) calendar days:
- (a) OAH shall issue a default order; and,
 - (b) A civil penalty equal to twice the amount of the fine imposed by the NOI shall be imposed by OAH in the default order.
- 704.11 Each civil penalty sustained by a finding of liability against the respondent may be downwardly modified and any fine reduced by OAH if:
- (a) The downward modification or fine reduction is consistent with the applicable provision of this title or other applicable law;
 - (b) The Office is provided with an opportunity to allocute; and,
 - (c) The downward modification or fine reduction is based on a consideration of all relevant mitigating and aggravating factors.

705 CEASE AND DESIST ORDERS

- 705.1 If the Office has reason to believe that a person is violating a provision of this title or other applicable law and the violation has caused or may cause immediate and irreparable harm to the public, the Office may issue a cease and desist order requiring the person to immediately, or within a specified period of time, cease the conduct or activity which is allegedly in violation of a provision of this title or other applicable law.
- 705.2 A cease and desist order shall be in writing and shall state:
- (a) The grounds for the order, including a citation to the law or regulation that the respondent is violating;
 - (b) A statement identifying the conduct which the respondent must cease, or the action the respondent must take in order to correct the violation;
 - (c) The deadline by which such conduct must cease or such action must be taken. The date and time may be immediately upon service of the order;
 - (d) A statement that the respondent has a right to a hearing before OAH if the respondent requests a hearing, in writing, within fifteen (15) calendar days of service of the order or request;

- (e) A statement explaining the process by which the respondent may request a hearing; and
- (f) A statement that the respondent's request for a hearing shall not stay, suspend or delay the effectiveness or enforcement of the order.

705.3 A cease and desist order shall be served and filed in the manner prescribed by § 712.

705.4 Upon receipt of a timely request for a hearing, OAH shall conduct a hearing within fifteen (15) calendar days after the date of receipt of the request and shall issue a decision within thirty (30) calendar days after the close of the record in the OAH proceedings.

705.5 If the respondent does not request a hearing in writing within thirty (30) calendar days after service of the cease and desist order, OAH shall issue a default order pursuant to its procedures. The default order shall incorporate the requirements, terms, and conditions of the cease and desist order.

705.6 A cease and desist order shall be enforced pending a final decision on the merits.

705.7 If a respondent fails to comply with a cease and desist order, the Commission or Office may, through the Office of the Attorney General, petition the District of Columbia Superior Court for injunctive relief, or take any other action authorized by law to enforce compliance with a provision of this title or other applicable law.

706 IMMEDIATE SUSPENSION OF A VEHICLE OPERATOR'S LICENSE

706.1 The Office may order the immediate suspension of a license allowing an individual to operate a public vehicle-for-hire whenever the Office has determined that reasonable grounds exist to believe that the operator poses an imminent danger to the public.

706.2 A determination under § 706.1 that a respondent poses an imminent danger to the public shall be based on evidence that the respondent has committed one of the following acts in connection with the provision of public vehicle-for-hire service:

- (a) Murder, manslaughter, mayhem, malicious disfiguring of another, arson, abduction, kidnapping, burglary, theft, breaking and entering, robbery, larceny, assault or battery, or any other felony;
- (b) A sexual offense proscribed by D.C. Official Code § 22-1901 (Incest), §§ 22-3101 to 22-3103 (Sexual Performance Using Minors), § 22-2701 to § 22-2722 (Prostitution and Pandering), §§ 22-3002 to 22-3020 (Sexual Abuse), or § 22-1831 *et seq.* (Human Trafficking);

- (c) A violation of the District of Columbia Uniformed Controlled Substances Act of 1981 or the Drug Paraphernalia Act of 1982, D.C. Official Code § 48-901.01 *et seq.* or the Drug Paraphernalia Act of 1982 effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq.*);
- (d) Any criminal act committed outside the District which, if committed in the District, would fall into one or more of the foregoing categories;
- (e) Any criminal offense committed against any person during, or in connection with, the operation of a public vehicle-for-hire;
- (f) A violation of any traffic regulations, or use of any vehicle, in a malicious manner or which indicates a reckless, depraved or wanton disregard for the safety of other persons or property; or,
- (g) Any act committed by or condition of an operator or licensee, including medical, which poses an imminent threat to the health or safety a customer or passenger.

706.3 In determining whether a respondent poses an imminent danger to the public, the Office may consider any and all relevant evidence, including evidence which may not be admissible in a criminal, civil, or administrative proceeding, including without limitation a statement against interest, an admission, an arrest record, or court order.

706.4 Each order of immediate suspension shall be in writing and shall state:

- (a) The grounds for the immediate suspension;
- (b) If the immediate suspension is for a time certain, the duration of the suspension; or, if the immediate suspension is for an indefinite period of time, the terms upon which the license may be reinstated in full;
- (c) The terms and conditions applicable to the suspension (if any), including any deadlines;
- (d) The amount of any fine imposed as a result of the violation of law or regulation giving rise to the suspension; and
- (e) That the matter will be scheduled for a hearing at OAH consistent with § 706.6 within three (3) business days after issuance of the order of immediate suspension.

- 706.5 Each order of immediate suspension shall be served and filed in the manner prescribed by § 712.
- 706.6 A initial hearing shall be held before OAH within three (3) business days of service of the order on the respondent, for the limited purpose of determining whether the Office has sufficient evidence to establish that reasonable grounds exist to support its the determination that the respondent poses an imminent danger to the public for reasons described in § 706.2.
- 706.7 At an initial hearing held pursuant to § 706.6, the respondent may request an evidentiary hearing before OAH on the order of immediate suspension , which shall be held within fifteen (15) calendar days of service of the order on the respondent.
- 706.8 The following matters shall not be admissible for the purpose of any determination of whether a respondent poses an imminent danger to the public:
- (a) The respondent has not been arrested, charged, prosecuted, presented, indicted, or convicted of a crime in connection with the facts giving rise to the finding;
 - (b) There is a judgment other than one of conviction against the respondent in a related criminal proceeding;
 - (c) The respondent has not been charged with a related civil infraction by an agency other than the Office in connection with the facts giving rise to the finding;
 - (d) There is a judgment other than one finding the respondent liable in a related administrative proceeding instituted by an agency other than the Office; or
 - (e) There is an absence of prior, similar misconduct by the respondent.
- 706.9 If OAH determines at an initial hearing held pursuant to § 706.6 that the Office has sufficient evidence to support a finding that the respondent poses an imminent danger to the public for reasons described in § 706.2, the order of immediate suspension shall remain in effect without modification by OAH until the time stated in the order of immediate suspension or until a final ruling on the merits by OAH, whichever is later.
- 707 IMMEDIATE SUSPENSION OF A LICENSE OTHER THAN A VEHICLE OPERATOR'S LICENSE**
- 707.1 The Office may order the immediate suspension of a license other than a license allowing an individual operate a public vehicle-for-hire whenever the Office has

determined that reasonable grounds exists to believe that the person poses an imminent danger to the public.

707.2 A determination under § 707.1 that an entity poses an imminent danger to the public shall be based on evidence that the entity has committed one of the following acts in connection with a public vehicle-for-hire service or activity:

- (a) The Office has reasonable grounds to believe the entity has committed or is committing a willful or repeated violation of any provision of this title which carries a civil penalty of at least five hundred dollars (\$500) for the current or most recent violation or for which license suspension is stated as an available civil penalty;
- (b) The Office has reasonable grounds to believe there exists an imminent or significant (not substantial) risk that the entity may be or has been used by one or more persons to violate or enable the violation of one or more provisions of this title or other applicable law;
- (c) The Office has reasonable grounds to believe the entity or the entity's operations or conduct pose an imminent or significant (not substantial) threat to the safety and welfare of passengers, operators, or the public; or
- (d) The Office has reasonable grounds to believe the entity's operations or conduct pose an imminent or significant (not substantial) threat to consumer protection or passenger privacy.

707.3 In determining whether a respondent poses an imminent danger to the public, the Office or District enforcement official may consider any and all relevant evidence, including evidence which may not be admissible in a criminal, civil, or administrative proceeding, including without limitation a statement against interest, an admission, an arrest record, or court order.

707.4 Each order of immediate suspension shall be served and filed in the manner prescribed by § 712.

707.7 Section 706.8 shall apply to all proceedings under this section.

708 NOTICE OF PROPOSED SUSPENSION OR REVOCATION OF A LICENSE

708.1 Proposed suspension. The Office may issue a notice of proposed suspension of a license issued under this title based on any of the following grounds:

- (a) A material misrepresentation, fraud, or concealment of material information in a communication with the Commission or the Office in a document provided to the Commission or the Office, or in connection with an activity for which the respondent is licensed;

- (b) A determination that the respondent no longer meets the requirements for the license it was issued by the Office;
- (c) The existence of one or more grounds for immediate suspension of a license pursuant to § 706.2 or § 707.2, without regard to whether the Office has issued an order of immediate suspension;;
- (d) A criminal conviction involving fraudulent conduct, or in the case of an entity, a determination that an employee, agent, or independent contractor associated with the entity has been convicted of such conduct in connection with any activity regulated by this title;
- (e) The use or subornation of a fraudulent or misleading device, method, or practice relating to any activity regulated by this title;
- (f) A willful or repeated failure to obey one or more compliance orders issued by the Office;
- (g) A willful or repeated failure to comply with one or more orders issued by OAH;
- (h) A willful or repeated failure to pay one or more civil fines imposed by the Office;
- (i) A willful or repeated failure to comply with one or more provisions of this title or applicable law.

708.2 Proposed revocation. The Office may issue a notice of proposed revocation of a license issued under this title based on any of the following grounds:

- (a) A current or prior suspension of the respondent's license under § 706, § 707, or § 708.1;
- (b) The respondent has committed substantial or repeated acts that constitute grounds for immediate suspension under § 706.2 or § 707.2, without regard to whether the Office has issued an order of immediate suspension;
- (c) The respondent has failed to timely and fully comply with the terms and conditions of an order of suspension, or has committed further violations of this title or other applicable law during the pendency of any suspension; or,
- (d) The respondent has committed substantial or repeated acts that constitute grounds for proposed suspension under § 708.1.

- 708.3 A notice of a proposed suspension or proposed revocation of a license shall be in writing and shall state:
- (a) The grounds for the proposed suspension or revocation;
 - (b) The date on which the proposed suspension or revocation will become effective;
 - (c) If a proposed suspension is for a time certain, the duration of the suspension; or, if the suspension is for an indefinite period of time, the terms upon which the license may be reinstated in full provided that no suspension shall extend beyond the current period of the license;
 - (d) Notification of the following:
 - (1) That the respondent has the right to request a hearing before the OAH within thirty (30) calendar days of service of the notice and the process for requesting a hearing; and,
 - (2) That if the respondent fails to file an appeal within thirty (30) calendar days, the proposed suspension or revocation will become final.
- 708.4 Each notice of proposed suspension and notice of proposed revocation shall be served and filed in the manner prescribed by § 712.
- 708.5 Section 706.10 shall apply to all proceedings under this section.

709 LICENSING DOCUMENTS

- 709.1 The terms stated or incorporated by reference in each licensing document shall constitute a compliance order to the licensee.
- 709.2 If a licensing document states that it is “temporary, it shall be valid and effective for all purposes under this title throughout the period stated therein.
- 709.3 No person, other than a District enforcement official or other person authorized by law, shall duplicate or cause to be duplicated any licensing document except with written permission from the Office or in compliance with § 814.8 or § 822.2. Such action shall constitute fraud for purposes of this chapter.

710 PUBLIC COMPLAINTS

- 710.1 The Office shall receive oral and written complaints by members of the public through the following means: by telephone, through the Commission's website, by email, in person, by U.S. Mail, by fax, or by private delivery service.
- 710.2 An oral complaint shall not be the basis of further action by the Office unless it has been reduced to writing.
- 710.3 The Office shall notify each complainant that his or her complaint has been received within seventy-two (72) hours of receiving a complaint submitted in writing or within seventy-two (72) hours after a complaint originally submitted orally is reduced to writing. The notice shall be provided by U.S. Mail, email, or telephone call using the contact information provided by the complainant.
- 710.4 A public complaint shall be pursued by the Office if submitted within thirty (30) days following the event or occurrence giving rise to the complaint, provided however, that a complaint alleging that any individual suffered personal injury or engaged in criminal misconduct in connection with a public vehicle-for-hire service may be pursued by the Office if submitted within twelve (12) months after the event or occurrence giving rise to the complaint.
- 710.6 Unless the Office determines that a public complaint is frivolous, it shall extend an invitation to mediate to the respondent pursuant to § 712 within fourteen (14) calendar days after the public complaint has been submitted to the Office.
- 710.7 The Office shall initiate any enforcement action based on a timely complaint not later than sixty (60) calendar days after the completion of mediation as described in § 711.
- 711 MEDIATION**
- 711.1 Mediation shall consist of an informal and voluntary meeting between the Office and the respondent, at a time and place designated by the Office, for the purpose of addressing a public complaint or an enforcement action, filed or contemplated.
- 711.2 A respondent shall not be required to participate in mediation. A directive to a respondent to appear at the Office shall be issued as a compliance order pursuant to § 702.2.
- 711.2 The Office shall extend an invitation to mediate when a public complaint is filed or when the Office is contemplating the issuance of an order of immediate suspension of a license, and may, in its discretion, extend an invitation to mediate any other matter.
- 711__ Mediation shall be scheduled by the Office to occur within a reasonable period, provided however, that mediation shall be scheduled for not later than three (3)

business days following service if the Office is considering the issuance of an order of immediate suspension.

711. An invitation to mediate shall be accepted by the respondent not later than the deadline set by the Office, provided however, that the deadline shall be ten (10) calendar days following service if the invitation is based on a public complaint, and two (2) business days if the Office is considering the issuance of an order of immediate suspension.

711.3 Each invitation to mediate shall be in writing and:

- (a) Shall state the designated time and location for the mediation session, as prescribed by § 711.3;
- (b) Shall state the deadline for acceptance of the invitation, as prescribed by § 711.3;
- (c) Shall provide a detailed description of the circumstances giving rise to the invitation, including the time, place, and location of any relevant incident to the extent possible without creating an opportunity for the respondent to tamper with or falsify evidence;
- (d) Shall state that the Office may take an enforcement action in connection with the circumstances giving rise to the invitation, identifying the applicable regulations and potential penalties;
- (e) May include a request that the respondent bring with it, or submit in advance, documents or information.

711.3 Each invitation to mediate shall be served in the manner prescribed by § 712.

711.4 If the Office receives a timely acceptance from the respondent and the respondent appears on time for mediation, the Office shall mediate the matter as stated in the invitation. If the Office does not receive a timely acceptance from the respondent or the respondent does not appear on time for mediation, the Office may initiate an enforcement action.

711.5 The Office may reschedule a mediation one time for good cause shown provided the request to reschedule is received by the Office not later than: three (3) business days before the mediation date, the deadline for acceptance of the invitation where a notice of immediate suspension may be issued, or a shorter period if exigent circumstances (such as hospitalization) exist, supported by appropriate documentation.

711.6 At mediation, the parties may negotiate and reach agreement on any penalty that would be available if an enforcement action were taken (including a full or partial payment of a civil fine), admission of liability, execution of a compliance agreement or consent decree, suspension or revocation of a license, or any other relief authorized by law.

711.7 No fact related to or concerning mediation shall be admissible in the adjudication of an enforcement action, including without limitation whether a mediation session occurred or did not occur, whether a mediation session was rescheduled or not, and the substance or fact of a party's offer to compromise, provided, however, that any information or document not created in anticipation of mediation or which rebuts an allegation by the respondent that it was not given notice shall be admissible regardless of whether it was obtained in connection with mediation. An enforcement action shall not be limited to the circumstances, evidence, civil infraction, or potential penalty stated in an invitation to mediate provided any change is based on subsequently-acquired information, further investigation, or additional analysis.

712 SERVICE AND FILING

712.1 Each written compliance order issued pursuant to § 702, each enforcement action authorized by § 703 other than an order of impoundment of a vehicle, and each invitation to mediate issued pursuant to § 711 shall be served by one of the following methods, unless a different method of service is required by law:

- (a) By personal service upon the respondent or the respondent's agent, through delivery of the document to the last known home or business address of the respondent, or the respondent's agent, on file with the Office and leaving the document with a person over the age of sixteen (16) years old residing or employed at that address by handing the notice or order to such individual;
- (b) By posting the document in a conspicuous place in or about the location of respondent's place of business; or
- (c) By mailing the document, via first-class U.S. Mail to the last known home or business address of the respondent, or respondent's agent, on file with the Office, through depositing the document into the U.S. Mail, without regard to any date stamped on the envelope by the Office or by the U.S. Postal Service.

712.2 Service pursuant § 712.1 shall be deemed complete, proper, and sufficient for all purposes at the time it is effected.

712.3 Posting pursuant to § 712.1 (b).

(a) An individual licensed by the Commission who defaces, alters, or removes a document posted pursuant to § 712.1 (b) without the approval of the Office or a District enforcement official shall be subject to a civil fine in the amount of one thousand dollars (\$1,000).

(b) An entity licensed by the Commission that suborns an act described in paragraph (a) of this subsection shall be subject to a civil fine in the amount of two thousand five hundred dollars (\$2,500).

712.4 Each document subject to service under § 712.1, other than a compliance order or invitation to mediate, shall be filed promptly with OAH in a manner prescribed by OAH rules.

713 REPRESENTATION

713.1 Each person may designate a representative to act or appear on its behalf before the Office, a hearing examiner, or the Commission in connection with any matter arising under this title.

713.2 No person, other than a representative designated pursuant to § 713.1 shall act or appear on behalf of another person before the Office or the Commission.

713.3 A representative is not required to be an attorney, but no person designated as a representative other than an attorney shall act as an attorney in any proceeding before the Office, a hearing examiner, or the Commission.

Subsection 799.1 is amended to read as follows:

799.1 The terms “adjudication,” “contested case,” “declaratory order”, “party,” “person”, and “license” shall have the meanings ascribed to them in the District of Columbia Administrative Procedure Act, effective Oct. 8, 1975, (D.C. Law 1-19, D.C. Official Code § 2-502 *et seq.*).

A new Subsection 799.2 is added to read as follows:

799.2 The following words and phrases shall have the meanings ascribed:

“**Complainant**” – A member of the public who submits a complaint.

“**District enforcement official**” – A public vehicle inspection officer (hack inspector) or other authorized official, employee, or general counsel of the Office, or any law enforcement official authorized to enforce a provision of this title or other applicable law.

“Licensing document” – A physical or electronic document issued by the Office as evidence that a person has been granted a license, such as a commercial operator’s identification card.

“Office” – The Office of Taxicabs as established by D.C. Official Code § 50-312.

“Public vehicle-for-hire” – Shall have the same meaning as in § 899.

“Respondent” – A person (individual or entity) that is the subject of a compliance order, a public complaint, an invitation to mediate, or an enforcement action.

“Revocation” – The permanent recall or annulment of the privilege or authority granted by a license without opportunity for reinstatement.

“Suspension” – A temporary bar from the privilege or authority conferred by a license for a period of time not to exceed the duration of the current license.

Chapter 3, PANEL ON ADJUDICATION: RULES OF ORGANIZATION AND PROCEDURE is DELETED and RESERVED.

Chapter 5, TAXICABS COMPANIES, ASSOCIATIONS, AND FLEETS AND INDEPENDENT TAXICABS, is amended as follows:

Subsection 500, APPLICATION AND SCOPE, is amended to read:

500.3 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Subsection 510.3 is DELETED.

Subsections 518.2 and 518.3 are DELETED.

Chapter 8, OPERATION OF TAXICABS, is amended as follows:

The title of Section 826 is amended to read:

ENFORCEMENT OF THIS CHAPTER

Section 826, ENFORCEMENT OF THIS CHAPTER, is amended as follows:

826.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Chapter 10, PUBLIC VEHICLES FOR HIRE, is amended as follows:

Subsection 1002, APPLICATION FOR A HACKER’S LICENSE; FEES, is amended to read:

1002.10 The denial of a hacker’s license for failure to successfully take and pass the written examination is not reviewable on appeal.

Section 1013 is DELETED.

A new Section 1013, ENFORCEMENT, is added.

1013.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques P. Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, DC 20020, Attn: Jacques P. Lerner, General Counsel and Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.